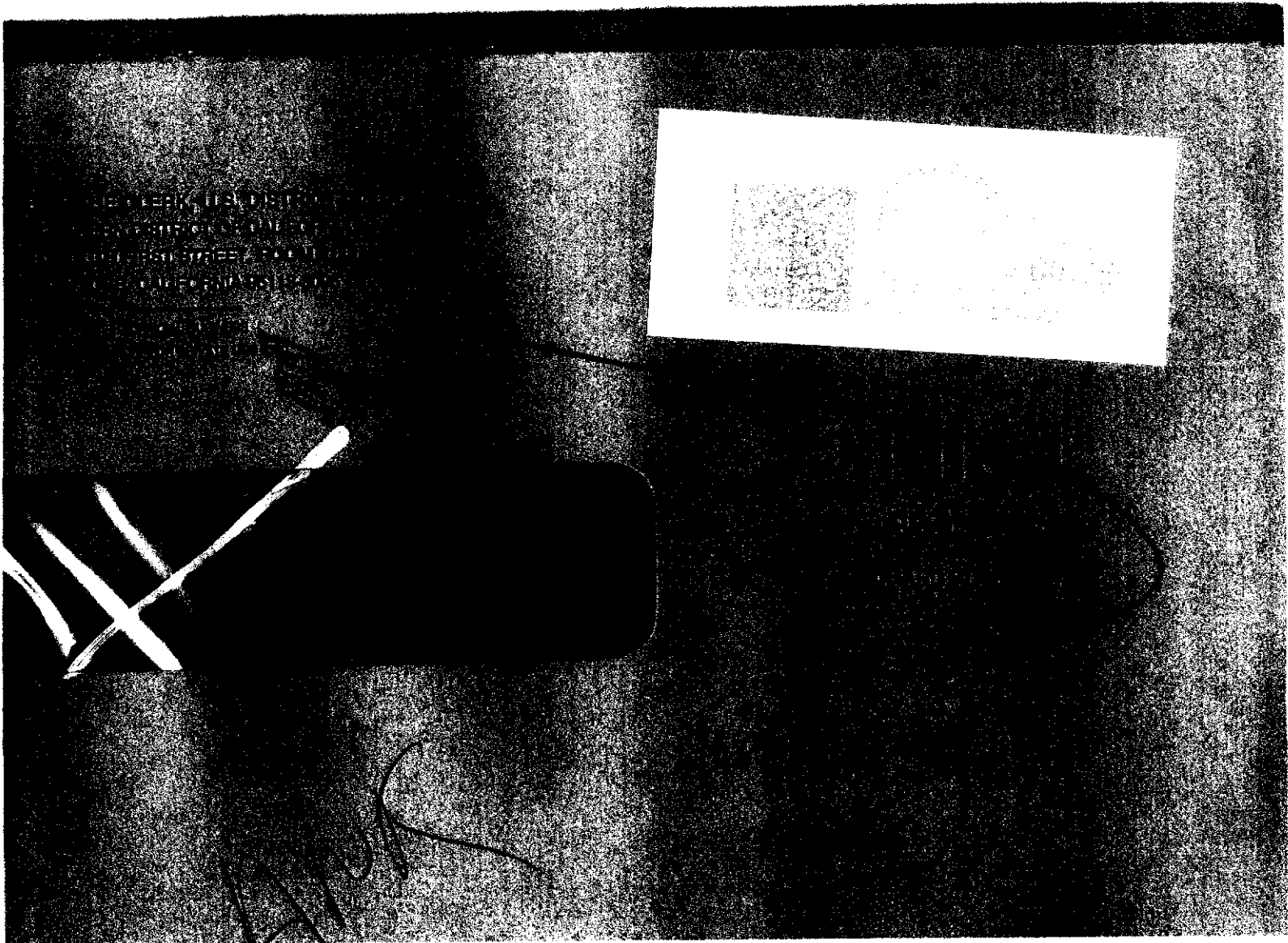


Raul Rivera Chavez
100 Pasco De San Antonio
Suite 319
San Jose, CA 95113

CV 08 00491 JW

69



FILED

JAN 31 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAUL RIVERA CHAVEZ,

Petitioner,

vs.

ROSE MARTINEZ, Warden,

Respondent.

No. C 08-00491 JW (PR)

ORDER DIRECTING PETITIONER
TO PAY FEE OR FILE *IN FORMA*
PAUPERIS APPLICATION

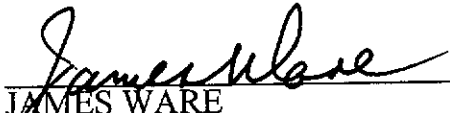
Petitioner filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Since petitioner filed what appeared to be a new habeas petition into a closed file, case number C 06-00069 JW (PR), the Court directed the clerk to transfer the relevant documents into a separate file and assign a new case number. Accordingly, this habeas action is proceeding under the case number captioned above. However, the information contained in the instant petition was not sufficient for this Court to determine whether petitioner stated cognizable claims under § 2254. Therefore, on January 18, 2008, petitioner was granted thirty days to file an AMENDED PETITION.

Furthermore, petitioner must either pay the full filing fee of \$5.00 or submit an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

1 Failure to do so within the same time provided for filing an amended petition will
2 result in the dismissal of this action without further notice to petitioner.

3 The clerk shall attach a copy of the court's In Forma Pauperis application
4 with a copy of this order to petitioner.

5
6 DATED: JAN 24 2008


JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RAUL RIVERA CHAVEZ,

Petitioner,

v.

ROSE MARTINEZ,

Respondent.

Case Number: CV08-00491 JW

CERTIFICATE OF SERVICE

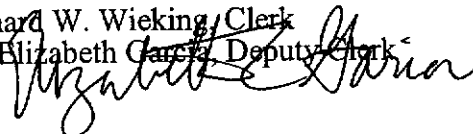
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 1/31/08, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Raul Rivera Chavez
100 Paseo De San Antonio
Suite 319
San Jose, CA 95113

Dated: 1/31/08

Richard W. Wieking, Clerk
By: Elizabeth Garcia, Deputy Clerk



1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR PRISONER'S**
4 **IN FORMA PAUPERIS APPLICATION**

5 You must submit to the court a completed Prisoner's In Forma Pauperis Application if you
6 are unable to pay the entire filing fee at the time you file your complaint or petition. Your application
7 must include copies of the prisoner trust account statement showing transactions for the last six
8 months and a certificate of funds in prisoner's account, signed by an authorized officer of the
9 institution.

10 **A. Non-habeas Civil Actions**

11 The filing fee for any civil action other than a habeas is \$350.00. Even if you are granted
12 leave to proceed in forma pauperis, you must still pay the full amount of the court's filing fee, but the
13 fee will be paid in several installments. 28 U.S.C. § 1915.

14 You must pay an initial partial filing fee of 20 percent of the greater of (a) the average
15 monthly deposits to your account for the 6-month period immediately before the complaint was filed
16 or (b) the average monthly balance in your account for the 6-month period immediately before the
17 complaint was filed. The court will use the information provided on the certificate of funds and the
18 trust account statement to determine the filing fee immediately due and will send instructions to you
19 and the prison trust account office for payment if in forma pauperis status is granted.

20 After the initial partial filing fee is paid, your prison's trust account office will forward to the
21 court each month 20 percent of the most recent month's income to your prison trust account, to the
22 extent the account balance exceeds ten dollars (\$10.00). Monthly payments will be required until
23 the full filing fee is paid. If you have no funds over ten dollars (\$10.00) in your account, you will not
24 be required to pay part of the filing fee that month.

25 If your application to proceed in forma pauperis is granted, you will be liable for the
26 full \$350.00 filing fee even if your civil action is dismissed. That means the court will
27 continue to collect payments until the entire filing fee is paid. However, if you do not
28 submit this completed application the action will be dismissed without prejudice and the
filing fee will not be collected.

B. Habeas Actions

The filing fee for a habeas action is \$5.00. If you are granted leave to proceed in forma
pauperis you will not be required to pay any portion of this fee. If you are not granted leave to
proceed in forma pauperis you must pay the fee in one payment and not in installments. If you use
a habeas form to file a non-habeas civil action, you will be required to pay the \$350.00 filing
fee applicable to all non-habeas civil actions.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

vs.

Plaintiff,

Defendant.

CASE NO. _____

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

I, _____, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ____ No ____

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: _____ Net: _____

Employer: _____

If the answer is "no," state the date of last employment and the amount of the gross and net salary

PRIS. APPLIC. TO PROC. IN FORMA

PAUPERIS, Case No. _____

and wages per month which you received. (If you are imprisoned, specify the last place of employment prior to imprisonment.)

2. Have you received, within the past twelve (12) months, any money from any of the following sources:

- a. Business, Profession or self employment Yes ____ No ____
- b. Income from stocks, bonds, or royalties? Yes ____ No ____
- c. Rent payments? Yes ____ No ____
- d. Pensions, annuities, or life insurance payments? Yes ____ No ____
- e. Federal or State welfare payments, Social Security or other government source? Yes ____ No ____

If the answer is "yes" to any of the above, describe each source of money and state the amount received from each.

3. Are you married? Yes ____ No ____

Spouse's Full Name: _____

Spouse's Place of Employment: _____

Spouse's Monthly Salary, Wages or Income:

Gross \$ _____ Net \$ _____

4. a. List amount you contribute to your spouse's support : \$ _____

b. List the persons other than your spouse who are dependent upon you for support

PRIS. APPLIC. TO PROC. IN FORMA

PAUPERIS, Case No. _____

1 and indicate how much you contribute toward their support. (NOTE: For minor
 2 children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

3 _____
 4 _____

5 5. Do you own or are you buying a home? Yes ____ No ____

6 Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

7 6. Do you own an automobile? Yes ____ No ____

8 Make _____ Year _____ Model _____

9 Is it financed? Yes ____ No ____ If so, Total due: \$ _____

10 Monthly Payment: \$ _____

11 7. Do you have a bank account? Yes ____ No ____ (Do not include account numbers.)

12 Name(s) and address(es) of bank: _____

13 _____

14 Present balance(s): \$ _____

15 Do you own any cash? Yes ____ No ____ Amount: \$ _____

16 Do you have any other assets? (If "yes," provide a description of each asset and its estimated
 17 market value.) Yes ____ No ____

18 _____

19 8. What are your monthly expenses?

20 Rent: \$ _____ Utilities: _____

21 Food: \$ _____ Clothing: _____

22 Charge Accounts:

23 Name of Account Monthly Payment Total Owed on This Acct.

24 _____ \$ _____ \$ _____

25 _____ \$ _____ \$ _____

26 _____ \$ _____ \$ _____

27 9. Do you have any other debts? (List current obligations, indicating amounts and to whom
 28 they are payable. Do not include account numbers.)

PRIS. APPLIC. TO PROC. IN FORMA

PAUPERIS, Case No. _____

Case Number: _____

CERTIFICATE OF FUNDS

IN

PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of _____ for the last six months at

[prisoner name]

_____ where (s)he is confined.

[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ _____ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ _____.

Dated: _____

[Authorized officer of the institution]